IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 13TH AUGUST 2007 / 22ND SRAVANA 1929

OP.No. 27359 of 2002(F)

PETITIONER:

ELSIE KURIAN, GNP-116,
PERURKADA P.O., TRIVANDRUM.
WORKED AS LECTURER IN LBS, C.S.T PALAYAM,
TRIVANDRUM.

BY ADV. SRI.THOMAS ABRAHAM
SRI.K.B.ARUNKUMAR
SMT.MERCIAMMA MATHEW

RESPONDENTS:
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1. STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY,
GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT,
TRIVANDRUM.

2. L.B.S. CENTRE FOR SCIENCE AND
TECHNOLOGY, NANDAVANAM, PALAYAM, TRIVANDRUM,
REPRESENTED BY ITS DIRECTOR.

BY ADV. SRI.P.B.SURESH KUMAR SC, LBS CENTRE
GOVERNMENT PLEADER SRI. V.T.K.MOHANAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 13/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NO. 46459/2002 IN OP NO. 27359/2002 F.

DISMISSED

13/08/2007. SD/- T.R.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPIES OF THE LEAVE LETTER AND THE MEDICAL CERTIFICATE PRODUCED ALONG WITH THE SAME.

EXT.P2. COPY OF THE ORDER DT. 20/4/99 BY THE R2 SANCTIONING LEAVE TO THE PETITIONER FOR 30 DAYS.

EXT.P3. COPIES OF THE LETTER DT. 30/4/99 AND THE MEDICAL CERTIFICATE PRODUCED ALONG WITH THE SAME.

EXT.P4. COPIES OF THE LEAVE APPLICATION DATED 14/6/99 BY THE PETITIONER AND THE MEDICAL CERTIFICATE SUBMITTED ALONG WITH THE LEAVE APPLICATION.

EXT.P5. COPIES OF THE LETTER DT. 8/7/99 BY THE PETITIONER BEFORE THE R2 REQUESTING HER TO ALLOW HER TO REJOIN DUTY AND MEDICAL FITNESS CERTIFICATE APPENDED THEREWITH.

EXT.P6. COPY OF THE LETTER DATED 26/6/00 BY THE R2 TO THE WOMEN'S COMMISSION.

EXT.P7. COPY OF THE LETTER DT. 29/7/00 BY THE R2 TO THE WOMEN'S COMMISSION.

EXT.P8. COPY OF THE LETTER DT. 29/09/00 BY THE R2 TO THE WOMEN'S COMMISSION TO THE PRINCIPAL SECRETARY OF THE SOCIAL WELFARE DEPARTMENT.

EXT.P9. COPY OF THE REPRESENTATION DT. 25/1/02 BY THE PETITIONER BEFORE THE R2.

EXT.P10. COPY OF THE SETTLEMENT DT. 30/10/98 INTO BETWEEN REPRESENTATIVES OF THE EMPLOYES AND THE R2 MANAGEMENT.

EXT.P11. COPY OF THE PROCEEDINGS OF THE R2 DT. 15/09/99.

EXT.P12. COPY OF THE RANK LIST OF THE LECTURERS PUBLISHED BY THE R2.

EXT.P13. COPY OF THE ORDER DT. 27/3/01 WHICH STIPULATED THE TERMS AND CONDITIONS OF GUEST LECTURERS.

EXT.P14. COPY OF THE ORDER DT. 16/7/01 BY THE R2.

EXT.P15. COPY OF THE CERTIFICATE DT. 13/3/00 BY THE R2 TO THE PETITIONER.

OP NO. 27359/2002

EXT.P16. COPY OF THE INTERIM ORDER DT. 16/2/99 IN OP NO. 1238/99.

EXT.P17. COPY OF THE JUDGMENT DT. 25/2/02 OF THIS COURT IN OP NO. 5849/02.

EXT.P17A. COPY OF THE LETTER DT. 23/3/02 BY THE COUNSEL FOR THE PETITIONER TO THE R2 FORWARDING THE CERTIFIED COPY OF THE JUDGMENT IN OP NO. 5849/02.

EXT.P17B. COPY OF THE POSTAL RECEIPT EVIDENCING THE DESPATCH OF THE EXHIBIT P17 AND EXHIBIT P17A.

EX.T.P18. COPY OF THE LETTER DT. 9/5/02 BY THE R2 TO THE PETITIONER INFORMING THE DATE OF HEARING.

EXT.P19. COPY OF THE HEARING NOTE SUBMITTED BY THE PETITIONER BEFORE THE R2 DT. 16/5/02.

EXT.P20. COPY OF THE JUDGMENT OF THIS COURT IN WA NO. 1424/2002.

EXT.P21. COPY OF THE ORDRE DT. 2/08/02 BY THE R2.

EXT.P22. COPY OF THE REPRESENTATION DT. 28/8/02 BY THE PETITIONER BEFORE THE IST AND 2ND RESPONDENT CHALLENGING EXT. P21 ORDER.

EXT.P22A. COPY OF THE ACKNOWLEDGEMENT CARD EVIDENCING THE FACT THE R2 RECEIVED THE EXT.P22 ON 6/09/02.

RESPONDENT'S EXHIBITS **NIL.**

True copy

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T.R.RAMACHANDRAN NAIR, J.

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O.P.No. 27359 of 2002-F.

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Dated this the 13th day of August, 2007.

J U D G M E N T

Aggrieved by the order Ext.P21, the writ petitioner approached this Court seeking various reliefs. The petitioner was engaged as a Lecturer on contract basis under the 2nd respondent from 1.2.1993 onwards. She was engaged to teach regular courses like P.G.D.C.A., D.C.A. and short time courses on Software Packages, Programming Languages, etc. She is a holder of B.Sc (Physics) Degree from Mahatma Gandhi University and also P.G.D.C.A. awarded by the Technical Education Department of the Government of Kerala.

2. It is averred in the writ petition that the period of contract started from 1.2.1993 to 31.7.1993 (the first period) and the next period started from 10.8.1993 which ended on 9.2.1994. Likewise, successive contracts were executed on same terms and ultimately it ended on 30.9.1996. Thereafter she was engaged from 1.10.1996 to 14.11.1996 on hourly basis. It is also stated that from 15.11.1996 to 21.10.1999 she continued on the very same basis during different spells.

3. The petitioner had a complaint that even though she had applied for maternity leave for 2 months that was not granted by the 2nd respondent.

The further complaint is that inspite of producing medical certificate the claims were not properly allowed. Subsequently she delivered a child on 15.11.1999. It is her case that after the above she wanted to rejoin duty. But inspite of submitting several representations no favourable action was taken. This prompted her to approach the Kerala Women's Commission. Even though the commission called for the remarks from the 2nd respondent, ultimately by Ext.P8 she was informed that she may have to seek other remedies. She submitted Ext.P9 representation seeking various reliefs including the claim for regularisation. She approached this Court earlier. In the meanwhile there was a meeting at the Chamber of the Hon'ble Chief Minister, based on that the Chief Minister assured that the question of regularisation of the temporary staff shall be considered favourably during the General Body Meeting proposed to be held on 18.11.1998. Ext.P11 is an order passed by the 2nd respondent to revise the remuneration of contract staff. It is her complaint that inspite of all these she could not rejoin duty. The petitioner relies upon Ext.P12 rank list which shows that she is Sl.No.8 therein. The petitioner approached this Court earlier by filing OP.No.1238/1999 which was disposed of directing the respondents to consider the matter.

4. The 2nd respondent has filed a detailed counter-affidavit denying her claim for re-appointment and regularisation. The learned counsel for the

petitioner submits that there had been hostile treatment as far as the petitioner is concerned. Consequently she alone was meted out hostile treatment as done in this case. It was further submitted that she was entitled for maternity leave was also entitled to rejoin service also. It is pointed out that there is total discrimination as far as the petitioner is concerned.

5. Since the issue involves a decision on the factual disputes between the parties, this Court is not the proper forum to decide those contested matters in these proceedings. It is not disputed that the 2nd respondent is functioning under the first respondent Government. Therefore, if the petitioner files a detailed representation before the 1st respondent within a period of six weeks from today, the first respondent will pass appropriate orders on merit after hearing the parties within a further period of two months from the date of receipt of that representation.

With the above observation this writ petition is disposed of. No costs.

T.R.RAMACHANDRAN NAIR, JUDGE.

Kvs/-